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November 14, 2018

United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201
Attn: Judge Jack B. Weinstein

Re: Doyle v. Palmer
Case No. 1:18-cv-04439-JBW-CLP

Dear Judge Weinstein:

I represent the plaintiff, Robert Doyle (“Doyle”), in the above-referenced matter, and submit this letter in response to the letter (Dkt. No. 20) that Matthew J. Modafferi submitted today on behalf of the Government.

Doyle amended the Complaint as of right on the date that his opposition to the Government’s dismissal motion would otherwise have been due, *i.e.*, on November 5, 2018. Thus, as the motion thereby became directed at a non-operable document, *i.e.*, the *original* Complaint, the motion, of course, ceased to be operable. However, Doyle does not oppose Mr. Modafferi’s “request[] that the Court consider the previously filed motion to dismiss [the *original* Complaint] as a motion to dismiss the *Amended* Complaint” (emphasis added).

The earliest date on which the motion could be considered to have been made against the *Amended* Complaint is today, *i.e.*, the date on which the Government made its above-quoted request. Therefore, unless the Court assigns a later date on which the motion is to be considered to have been made against the Amended Complaint, or requires the Government to submit a new motion, Doyle will consider today to be the date on which the Government has made its motion to dismiss the Amended Complaint, making Doyle’s opposition due on December 3, 2018.

Sincerely,

s/ Todd C. Bank

Todd C. Bank

TCB/bd